

## 2002

# Small Business Stock Questionnaire

3565

Corporation name										California corporation number																			
Address										PMB no.					Federal employer identification no. (FEIN)														
City										State					ZIP Code														
A. Taxable year (beginning and ending)										B. Date of incorporation										C. State of incorporation									
D. Date of qualification in California										E. Principal business activity										F. Principal business activity code (Do not leave blank)									

**If the answer to any of the questions G through O is NO, STOP; do not complete this form because the stock issuance does not qualify under California Revenue and Taxation Code Section 18152.5.**

- G.** Did the corporation issue non-treasury stock during the current taxable year? ..... Yes ☐ No ☐  
Date of stock issuance for which this information applies: \_\_\_\_\_  
Month / Day / Year

**H.** Was the non-treasury stock issued, in whole or in part, for money, for property other than stock, or for services provided to the corporation? ..... Yes ☐ No ☐

**I.** Were the corporation's aggregate gross assets less than or equal to \$50,000,000 from the period beginning July 1, 1993, to the date of issuance of the non-treasury stock? See instructions ..... Yes ☐ No ☐

**J.** Did the corporation's assets (in excess of liabilities) consist of 10% or less of stocks or securities of a non-subsidary corporation(s)? ..... Yes ☐ No ☐

**K.** Was at least 80% of the corporation's payroll in California at the date of issuance of the non-treasury stock? ..... Yes ☐ No ☐

**L.** Was the corporation a California domestic corporation at the date of issuance of the non-treasury stock? ..... Yes ☐ No ☐

**M.** Since the issuance of non-treasury stock, was this corporation a C corporation for California purposes? ..... Yes ☐ No ☐

**N.** Since the issuance of non-treasury stock, was this a corporation with a classification **other than a:**  
• RIC, REIT, or REMIC? ..... Yes ☐ No ☐  
• DISC or former DISC? ..... Yes ☐ No ☐  
• Corporation with an IRC Section 936 election in effect or a direct or indirect subsidiary with an election? ..... Yes ☐ No ☐  
• Cooperative? ..... Yes ☐ No ☐

**O.** Since the issuance of non-treasury stock, were at least 80% (by value) of the assets of the corporation used in the active conduct of one or more qualified trades or businesses in California? See instructions ..... Yes ☐ No ☐

**P.** What percentage of the total value of assets consisted of real property that was not used in the active conduct of the trade or business? See instructions ..... %

**Q.** What was the aggregate subscription amount for all non-treasury stock issuances during the corporation's existence prior to the current issuance? ..... \$ \_\_\_\_\_

**R.** What was the aggregate subscription amount of non-treasury stock issued during the current taxable year? ..... \$ \_\_\_\_\_

**S.** Of the amount in Question R, how much was **received for** qualified small business stock? ..... \$ \_\_\_\_\_

**T.** What was the date of the first non-treasury stock issuance during the current taxable year? .....  
Month / Day / Year

**U.** What was the date of the last non-treasury stock issuance during the current taxable year? .....  
Month / Day / Year

**V.** What was the aggregate percentage of the total purchases of this corporation's own stock (relative to the aggregate value of the corporation's total stock for a two-year period beginning on the date one year before the issuance of this stock)? ..... %  
(If the aggregate percentage is more than 5%, the stock does not qualify as small business stock.)

Under penalties of perjury, I declare that I have examined this form, and to the best of my knowledge and belief, it is true, correct, and complete.

Signature  
of officer ►

| Print name and title

| Date

# 2002 Instructions for Form FTB 3565

## Small Business Stock Questionnaire

References in these instructions are to the Internal Revenue Code (IRC) as of January 1, 2001, and to the California Revenue and Taxation Code (R&TC).

### General Information

In general, California law conforms to the Internal Revenue Code (IRC) as of January 1, 2001. Therefore, California has conformed to the income tax changes made to the IRC by the federal Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105-206), the Tax and Trade Relief Extension Act of 1998 (Public Law 105-277), Surface Transportation Revenue Act of 1998 (Public Law 105-178), the Ricky Ray Hemophilia Relief Fund Act of 1998 (Public Law 105-369), the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170), the Miscellaneous Trade and Technical Corrections Act of 1999 (Public Law 106-36), the FSC Repeal and Extraterritorial Income Exclusion Act of 2000 (Public Law 106-519), the Consolidated Appropriations Act of 2001 (Public Law 106-554), and to technical corrections made by the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16). However, there are continuing differences between California and Federal law. California has not conformed to some of the law changes made by the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) or the federal Job Creation and Worker Assistance Act of 2002 (Public Law 107-147). Note: Fiscal year taxpayers are subject to California tax law as it conforms to federal law that is applicable for taxable years beginning prior to January 1, 2002.

### A Purpose

Use form FTB 3565, Small Business Stock Questionnaire, to provide information regarding issuance of stock pursuant to R&TC Section 18152.5.

### B Who Must File

A corporation must file form FTB 3565 if it qualifies as a "qualified small business" and issued stock pursuant to R&TC Section 18152.5 during the current taxable year.

**Note:** If there was more than one issuance of small business stock during the taxable year, fill out a separate form FTB 3565 for each issuance. For purposes of this form, all corporations which are members of the same parent-subsidary controlled group shall be treated as one corporation. A parent-subsidary controlled group is defined in IRC Section 1563(a)(1), except that for California tax purposes "more than 50%" shall be substituted for "at least 80%."

### C When and Where to File

For taxable years beginning on or after January 1, 1996, a corporation is required to file form FTB 3565 along with Form 100,

Corporation Franchise or Income Tax Return or Form 100W, California Corporation Franchise or Income Tax Return - Water's Edge Filers. Attach form FTB 3565 to Form 100 or Form 100W and file on or before the due date of the corporate return, including extensions.

Under authority granted in R&TC Section 18152.5, the Franchise Tax Board (FTB) requires the corporation to provide a copy of any completed form FTB 3565 to each shareholder that acquired qualified small business stock as part of the stock issuance that is reported on the completed form FTB 3565 during the current taxable year.

Failure to file this form by the corporation's original or extended return due date for the current taxable year may result in a penalty being assessed to the corporation pursuant to R&TC Section 19133.5. The penalty amount is \$50 per failure to file unless the failure is due to negligence or intentional disregard, then the penalty amount is \$100 per failure to file the form.

Failure of the corporation to file form FTB 3565 will not disqualify the stockholder from excluding gain from the sale or exchange of stock. However, the stockholder bears the burden of proving that the gain from the sale or exchange qualifies for exclusion pursuant to R&TC Section 18152.5.

#### Private Mailbox (PMB) Number

If the corporation leases a PMB from a private business rather than a PO box from the United States Postal Service, include the box number in the field labeled "PMB no." in the address area.

### Specific Instructions

**Item F – Principal business activity (PBA) code – Do not leave blank.** Enter the six-digit PBA code from the chart included in the 2002 Form 100, Corporation Tax Booklet or Form 100W, Water's-Edge Booklet. The code should be the number for the specific industry group from which the greatest percentage of California "total receipts" is derived. "Total receipts" means gross receipts plus all other income. The California PBA code number may be different than the federal PBA code number.

**Questions G through O –** If the answer to any of these questions is "No," stop. The stock issuance does not qualify under R&TC Section 18152.5. You do not need to complete the rest of this form and do not attach this form to the Form 100 or Form 100W.

**Question I –** Disregard the stock and debt of any subsidiary corporation. Include the ratable share of the subsidiary's assets and the value of property received for this stock in deter-

mining the corporation's aggregate gross assets at the date of issuance of the non-treasury stock.

**Question L –** A domestic corporation is defined in IRC Section 7701(a)(4) as any corporation created or organized in any state in the United States.

**Question O –** A qualified trade or business is defined as any trade or business **other than:**

- Any trade or business involving the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, consulting, athletics, financial services, brokerage services, or any trade or business where the principal asset of the trade or business is the reputation or skill of one or more of its employees;
- Any banking, insurance, financing, leasing, investing, or similar business;
- Any farming business (including the business of raising or harvesting trees);
- Any business involving the production or extraction of products of a character with respect to which a percentage depletion deduction is allowable under IRC Section 613 or 613A; and
- Any business of operating a hotel, motel, restaurant, or similar business.

**Question P –** If more than 10% of the total value of the corporation's assets consists of real property that is not used in the active conduct of a qualified trade or business, the stock issuance is not qualified. For the purpose of calculating the total value of the assets, any ownership of, dealing in, or renting of, real property shall not be treated as the active conduct of a qualified trade or business.

**Question R –** Enter the aggregate subscription amount of non-treasury stock issued by the corporation during the entire taxable year.

**Question S –** Enter the amount included in Question R that was received for that part of the stock issuance that qualifies as small business stock under the provisions of R&TC Section 18152.5.

The amounts that are entered in Question R and Question S should not include the value of stock issued in exchange for stock.

**Note:** Records should be maintained showing that the stock issuance met the requirements of R&TC Section 18152.5.

**Question T –** If there was more than one issuance of small business stock during the current taxable year, enter the date of the first issuance here.

**Question U –** If there was more than one issuance of small business stock during the current taxable year, enter the date of the last issuance here.